

THE HONORABLE BARBARA J. ROTHSTEIN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

VULCAN LLC; et al.,

Plaintiffs,

v.

ZURICH AMERICAN INSURANCE  
COMPANY; et al.

,

Defendants.

No.: 2:21-cv-00336-BJR

STIPULATED MOTION AND  
ORDER TO CONTINUE THE STAY

The Parties collectively submit this Stipulated Motion and [Proposed] Order to continue the stay of proceedings in this action for approximately one month.

**1. FACTS**

The Court is familiar with the background facts. Briefly, on March 12, 2021, Vulcan filed a Complaint for Declaratory Relief. Dkt. 1. The matter was subsequently stayed by minute order. Dkt. 71. Since that time, the Plaintiffs have settled with and dismissed several Defendants. Dkt. 75. The Plaintiffs have also agreed to settle with several more Defendants; those settling parties are currently gathering signatures on an agreed-upon settlement document. Plaintiff and the remaining defendants continue to work toward amicably

1 concluding this litigation early in the New Year and expect it to be ready for dismissal  
2 shortly thereafter. *See* Joint Status Report (filed contemporaneously with this motion).

3 The parties wish to extend the stay of the current proceedings to allow time for all  
4 signatures to be gathered and obligations under the settlement agreement to be satisfied, and  
5 to allow for the Plaintiffs to conclude this litigation with the remaining Defendants. The  
6 parties thus request an Order continuing the stay in this case for approximately one month.

## 7 **2. AUTHORITY**

8 “A district court has the inherent power to stay its proceedings.” *Oregon Mut. Ins.*  
9 *Co. v. Ham & Rye, LLC*, 2010 WL 2787852 at \*3 (W.D. Wash. July 14, 2010) (citing *Landis*  
10 *v. North American Co.*, 299 U.S. 248, 254 (1936)). This power to stay is “incidental to the  
11 power inherent in every court to control the disposition of the causes on its docket with  
12 economy of time and effort for itself, for counsel, and for litigants.” *Id.* A court may enter a  
13 stay if it finds “it is efficient for its own docket and the fairest course for the parties to enter a  
14 stay of an action before it, pending resolution of independent proceedings which bear upon  
15 the case.” *Leyva v. Certified Grocers of California, Ltd.*, 593 F.2d 857, 863-64 (9th Cir.  
16 1979). When considering a motion to stay, the court weighs several competing interests (the  
17 “*Landis* factors”): (1) the hardship or inequity a party may suffer if the stay is not granted;  
18 (2) the orderly course of justice measured in terms of the simplifying or complicating of  
19 issues, proof, and questions of law which could be expected to result from a stay; and (3) the  
20 possible damage that may result from the granting of the stay. *Id.* (citing *CMAX, Inc. v. Hall*,  
21 300 F.2d 265, 268 (9th Cir. 1962)).

22 The *Landis* factors weigh in favor of continuing the stay this case. First, because all  
23 Parties agree that a short continuance is appropriate, no party will suffer hardship or inequity  
24 from a stay. Second, the orderly course of justice will be furthered insofar as a case is almost  
25 ready for dismissal (and thus removal from the Court’s docket). Third, extending the stay for  
26 one month will avoid damage to any party by leaving the litigation open until obligations

under the settlement agreement are satisfied.

In light of foregoing IT IS HEREBY STIPULATED AND AGREED, by and between the Parties, that this action should be stayed consistent with the Proposed Order attached to this motion.

DATED: December 15, 2022

GORDON TILDEN THOMAS &  
CORDELL, LLP

By: s/ Greg Pendleton

Dale L. Kingman, WSBA #07060

Greg D. Pendleton, WSBA #38361

Email: [dkingman@gordontilden.com](mailto:dkingman@gordontilden.com)  
[gpendleton@gordontilden.com](mailto:gpendleton@gordontilden.com)

*Attorneys for Plaintiffs*

BULLIVANT HOUSER BAILEY PC

By: s/ Daniel R. Bentson

Daniel R. Bentson, WSBA #36825

Email: [dan.bentson@bullivant.com](mailto:dan.bentson@bullivant.com)

HINSHAW & CULBERTSON

By: s/ Courtney Murphy

Courtney Murphy, *pro hac vice* (pending)

Email: [courtney.murphy@hinshaw.com](mailto:courtney.murphy@hinshaw.com)

*Attorneys for Defendants Certain  
Underwriters at Lloyd's London Subscribing  
to Policy Nos. BOWPN1900599 and  
BOWPN1900606, and Partner Re Ireland  
Insurance DAC*

CLYDE & CO. US, LLP

By: s/ Susan K. Sullivan

Susan K. Sullivan, WSBA #21725

Email: [susan.sullivan@clydeco.us](mailto:susan.sullivan@clydeco.us)

*Attorneys for Defendants Endurance  
American Specialty Insurance Company,  
Continental Casualty Company, and  
Certain Underwriters at Lloyd's London  
Subscribing to Policy No. BOWPN1900601*

FORSBERG & UMLAUF, P.S.

By: s/ Carl E. Forsberg

Carl E. Forsberg, WSBA #17025

Email: [cforsberg@foum.law](mailto:cforsberg@foum.law)

ZELLE, LLP

By: s/ Jonathan R. MacBride

Jonathan R. MacBride, *pro hac vice*

Matthew L. Gonzalez, *pro hac vice*

Email: [jmacbride@zelle.com](mailto:jmacbride@zelle.com)  
[mgonzalez@zelle.com](mailto:mgonzalez@zelle.com)

	<p><i>Attorneys for Defendants Everest Indemnity Insurance Company, Arch Specialty Insurance Company, Great Lakes Insurance SE, International Insurance Company of Hannover, SE, and Certain Underwriters at Lloyd's London Subscribing to Policy Nos. BOWPN1900599, BOWPN1900820, and BOWPN19007722</i></p>
<p>DLA PIPER, LLP (US)</p> <p>By: <u>s/ Anthony Todaro</u>  Anthony Todaro, WSBA #30391</p> <p>Email: <a href="mailto:anthony.todaro@dlapiper.com">anthony.todaro@dlapiper.com</a></p> <p><i>Attorneys for Defendant Westport Insurance Corporation</i></p>	

### ORDER

The Court has considered the parties' Stipulated Motion to Continue the Stay in this action, and for good cause shown,

IT IS HEREBY ORDERED that the stay in this action is continued through January 13, 2023. The parties shall submit to the Court a joint status report (or appropriate Rule 41 filings) on or before January 13, 2023.

IT IS SO ORDERED this 19th day of December 2022.



THE HONORABLE BARBRA J. ROTHSTEIN